IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE THIRTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION No.22601 of 2004

Between:

1. V.Ashok Kumar s/o.Ramakoteswer Rao,
Staff Assistant, Krishna District Co.operative Central Bank Limited, Pamarru Branch Krishna District, r/o.Pamarru, Krishna District.
2. R.Narayana Rao S/o.Suryanarayana
Incharge Krishna District Co.operative Central Bank Limited, Mudinepalli Branch Krishna District,R/o.Mudinepalli, Krishna District.

.....PETITIONERS

AND

The Krishna District Cooperative Central Bank Ltd., Machilipatnam, Krishna District rep., by its
General Manager.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly in the nature of writ of Mandamus declaring the proceedings No.310/Estt/2004-05 dt.1.12.2004 (1st petitioner) and proceedings No.473/Estt/2004-05 dt.1.12.2004 (2nd Petitioner) under which the petitioners are kept under suspension pending enquiry as illegal, arbitrary and without jurisdiction and violative of Article 14 and 21 of the Constitution of India and consequently set aside the same with all consequential benefits.

Counsel for the Petitioners :MR.E.SATYANARAYANA

Counsel for the Respondent: MR.B.ADINARAYANA RAO

The Court at the admission stage made the following ORDER :

This writ petition is filed to issue a writ of Mandamus declaring the proceedings Nos.310/Estt/2004-05 dated 01.12.2004 and 473/Estt/2004.05 dated 01.12.2004 passed by the General Manager of the respondent-Bank suspending the petitioners, on the ground of misappropriation of funds of Mudinepalli branch as arbitrary and illegal.

The learned counsel appearing for the petitioners, placed reliance on Rule 28(2) of the A.P. Cooperative Societies Rules, 1964, (for short "the Rules") and contended that approval of the Registrar of the Co-operative Societies with regard to the rules relating to disciplinary proceedings is necessary, but no such approval has been taken by the respondent-Bank from the Registrar with regard to the service rules and that the General Manager of the respondent-Bank is not the competent authority to keep the employees of the Co-operative Societies under suspension and therefore, the suspension order is contrary to the Rules.

On the other hand, learned counsel appearing for the respondent placed reliance on the bye-laws of the respondent-Bank, and contended that the General Manager of the respondent-Bank has disciplinary control over the employees of the Bank, coming under categories III to VIII of the bye-laws, and the petitioners come within the categories of V and VII of the bye-laws respectively and therefore, the General Manager is competent to place the petitioners under suspension.

Normally this Court will not interfere with the order of suspension unless the authority who passed the suspension order has no jurisdiction at all. The learned counsel for the petitioner placed reliance on Rule 28(2) of the Rules, which speaks about the rules with regard to the disciplinary proceedings, to be approved by the Registrar of A.P.Co-operative Societies. In pursuance of that Rule, the concerned Co-operative Society has to frame the rules and send the same to the Registrar of Co-operative Societies for approval, *inter alia* the disciplinary proceedings also. Even though no rules are approved with regard to the service conditions of the employees by the Registrar, employees of the Respondent-Bank are bound by the bye-laws. None of the provisions in the bye-laws are under challenge in this writ petition.

As per bye-law No.27(9)(d) of the bye-laws, the General Manager shall have

full disciplinary control over the employees coming under category III to VIII. Admittedly, the petitioners come within the categories of V and VII respectively. Therefore, the General Manager is competent to place the petitioners under suspension. Since the jurisdiction of the General Manager is in accordance with the bye-laws of the respondent-Bank, the impugned suspension orders cannot be said to be illegal.

Accordingly, the writ petition is disposed of with a direction to the respondents to complete the enquiry within a period of three months from the date of receipt of a copy of this order. Further it is also made it clear that the petitioners are entitled, as a matter of right, for subsistence allowance, and the respondent shall pay the same to the petitioners in accordance with the Rules and Bye-laws of the Bank.

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K.C.BHANU, J

Dated : 13th December, 2004.

Note: Issue C.C. in three days.
(B/O)

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To

1. The General Manager, Krishna District Cooperative Central Bank Ltd., Machilipatnam, Krishna District.

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